



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking to Implement the  
Commission's Procurement Incentive  
Framework and to Examine the Integration of  
Greenhouse Gas Emissions Standards into  
Procurement Policies

R.06-04-009

**PREHEARING CONFERENCE STATEMENT  
OF THE COGENERATION  
ASSOCIATION OF CALIFORNIA AND THE  
ENERGY PRODUCERS AND USERS COALITION**

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November 15, 2006

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ENERGY PRODUCERS AND USERS COALITION**

Pursuant to the Joint Administrative Law Judges' Ruling in this matter,<sup>1</sup> the Cogeneration Association of California<sup>2</sup> and the Energy Producers and Users Coalition<sup>3</sup> (CAC/EPUC) hereby file these comments preparatory to the Pre-hearing Conference in this matter. These comments highlight:

- The importance of interagency coordination, as well as anticipation of a broader statewide or national regulatory program, in formulating the Commission's greenhouse gas (GHG) regulatory framework;
- The ongoing need to consider the total energy output and the multi-sector implications for cogeneration facilities.

The comments also briefly address procedural matters, including the scope and schedule for Phase 2.

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<sup>1</sup> Issued November 1, 2006.

<sup>2</sup> CAC represents the power generation, power marketing and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company.

<sup>3</sup> EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP America Inc. (including Atlantic Richfield Company), Chevron U.S.A. Inc., ConocoPhillips Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, Occidental Elk Hills, Inc., and Valero Refining Company – California.

**I. THE COMMISSION'S FOCUS ON INTERAGENCY COORDINATION AND ANTICIPATION OF A BROADER GHG PROGRAM ARE WELL PLACED.**

The Joint Ruling highlights the importance of the Commission's coordination with the Governor's Climate Action Team, California Air Resources Board (CARB) and the Climate Action Registry. CAC/EPUC strongly share this perspective, recognizing the importance of coordinated state policy and the potential impact of this policy on businesses with operations spanning multiple sectors. Careful coordination among agencies will be required to ensure that operations spanning multiple sectors, such as electricity and petroleum, are not subject to multiple, perhaps inconsistent, regulatory schemes.

Industrial self-generators, for example, face the risk of inconsistent regulatory schemes, where the generator sells to the grid while also providing energy to industrial processes on site. The generation function selling energy to LSEs may be required to meet CPUC climate-change regulations, while the provision of energy to the industrial process, such as a refinery, may be subject to CARB regulations. The Joint Ruling anticipates the same issue for load serving entities (LSEs). It observes that LSEs may be required to comply with two sets of regulations, both from the Commission and from CARB. It is important to provide as much coordination as possible among these various state efforts so that any entity need only comply with one set of regulations. Alternatively, the regulations from the Commission and CARB should interface seamlessly so that compliance can be clear and cost-effective.

Coordination of agencies is also critical to the effective design of a statewide program under Assembly Bill (AB) 32. The Commission's prior rulings have contemplated the use of market-based mechanisms in establishing a long-term greenhouse gas (GHG) regulation program. AB 32 likewise contemplates the potential use of market-based mechanisms across the sectors regulated by CARB. Consequently, this Commission's final design for utility regulation must anticipate development and coordination of common market-based features with a multi-sector program.

The need for coordination may require the Commission to revisit its original determination in D.06-02-032 that a permanent cap should be load-based. Some of the original conditions justifying that decision may have changed, particularly with the passage of AB 32. And if the Commission continues to pursue a load-based cap and CARB were to implement caps on "sources or categories of sources" as specified by AB 32, the mixed schemes would present a challenge in coordinating the operation of a seamless and efficient emissions market.

**II. THE COMMISSION MUST REMAIN AWARE OF THE UNIQUE ATTRIBUTES OF COGENERATION FACILITIES IN FORMULATING ITS GHG PROGRAM.**

The Commission's Staff, in Phase I of this proceeding, has carefully considered issues arising for cogeneration facilities under a GHG regulation. Specifically, the emissions from a cogeneration facility are attributable not only to electrical energy production but also to the production of thermal energy for delivery to an industrial host. Thus, in calculating emissions in the electricity

sector, it is important to account for the emissions associated with thermal energy production as the Staff has recommended in Phase I.

Moreover, as noted above, cogeneration operations have multi-sector implications. For example, a cogeneration facility located on a refinery site may produce electricity and thermal energy to serve on-site load, selling the excess energy to the interconnected utility. While the power sale to the interconnected utility falls within this Commission's jurisdiction, the production and use of electrical and thermal energy for on-site use falls outside its jurisdiction.

The Commission must remain aware of these issues in crafting its regulatory program.

### **III. PROCEDURAL ISSUES**

#### **A. Scope of Issues**

CAC/EPUC generally agree with the scope of issues identified in the Ruling, with one elaboration to the Draft Scope of Issues in Attachment A. In issue 1, the Commission will address reporting standards. As discussed above, one of the details in constructing the reporting process is how cogeneration emissions will be calculated and allocated between the electrical and thermal outputs of the cogeneration facility. The parties devoted much time and effort to developing a mechanism to resolve this computational issue in Phase I so that the total emissions of the cogeneration facility were properly allocated between electrical and thermal energy outputs. CAC/EPUC would propose that the issue be resolved using the same methodology in this Phase.

## B. Schedule

CAC/EPUC suggest one addition to the Draft Schedule in Attachment B.

In undertaking the Baseline Development, it would be useful to know what data are available regarding historical emission levels, particularly for target years such as 1990. As a first step in that task, the LSEs should be directed to provide information concerning their baseline levels, including emissions data and the assumptions and methodologies used to derive the data, to all parties to this proceeding. Identifying a common data set for all utilities at the outset of this Phase and making the information available to parties will provide a base for a productive and timely outcome in this proceeding.

Respectfully submitted,



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November 15, 2006

## CERTIFICATE OF SERVICE

I, Karen Terranova hereby certify that I have on this date caused the attached **Prehearing Conference Statement of the Cogeneration Association of California and the Energy Producers & Users Coalition** in R06-04-009 to be served to all known parties by either United States mail or electronic mail, to each party named in the official attached service list obtained from the Commission's website, attached hereto, and pursuant to the Commission's Rules of Practice and Procedure.

Dated November 15, 2006 at San Francisco, California.



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